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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/887,887	06/22/2001	Vincenzo Tomarchio	CM2385	7950

27752 7590 12/23/2008  
THE PROCTER & GAMBLE COMPANY  
Global Legal Department - IP  
Sycamore Building - 4th Floor  
299 East Sixth Street  
CINCINNATI, OH 45202

EXAMINER
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TORRES VELAZQUEZ, NORCA LIZ

ART UNIT	PAPER NUMBER
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1794

MAIL DATE	DELIVERY MODE
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12/23/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/887,887	<b>Applicant(s)</b> TOMARCHIO ET AL.	
	<b>Examiner</b> Norca L. Torres-Velazquez	<b>Art Unit</b> 1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 October 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8, 10, 12, 14-17, 19-24, 26, 28 and 30-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10, 12, 14-17, 19-24, 26, 28 and 30-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

***Response to Amendment***

1. The Examiner has carefully considered Applicant's amendments and accompanying remarks filed October 02, 2008. In view of Applicant's amendment, the previously set forth rejections have been modified below.
2. Claims 9, 11, 13, 18, 25, 27 and 29 have been canceled.
3. Claims 1, 8, 10, 17 and 26 have been amended, no new matter was found.

***Claim Rejections - 35 USC §103***

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
5. **Claims 1-8, 10, 12, 14-17, 19-24, 26, 28 and 30-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over SHERRY et al. (US 6,716,805 B1) in view of MANNING et al. (US 4,755,421).**

SHERRY et al. relates to hard surface cleaning compositions on a substrate including premoistened wipes. (Refer to Abstract and Col. 1, lines 14-16) The compositions can have disinfectant properties achieved through the choice of antibacterial additives, including citric acid. (Col. 2, lines 43-47) The reference teaches using a treatment solution that has a pH under usage conditions of from about 2 to about 12. (Col. 4, lines 58-62; col. 24, lines 22-30) The reference teaches the use of perfume and/or additional adjuvants such as essential oils like geraniol, citronellol, terpineol among others. (Refer to Col. 18, lines 49-67 through Col. 19, 1-21) The reference teaches the use of hydroentanglement methods to form a suitable fibrous

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substrate for the premoistened wipes and also teaches embodiments that using man-made regenerated cellulosic fibers. (Refer to Col. 26, lines 3-36)

While SHERRY et al. teaches the use of hydroentangled constructions, it is silent to these being biodegradable and that the substrates contain no chemical binders.

MANNING et al. discloses a nonwoven fibrous web having a high wet tensile strength when packed in a preservative liquid load, and is biodegradable and yet which breaks up under mild agitation conditions in a wet environment such as by the flushing action of a toilet. The fibers in the nonwoven web are held together only by friction and naturally occurring hydrogen bonding. The reference discloses that no binder is necessary to hold together the fibers. The reference used hydro-entanglement without addition of a bonding agent and that the web has a wet tensile strength of at least 250 grams per inch. (Refer to Abstract; Col. 1, lines 5-11 and Col. 2, lines 57-60)

Although the prior art of SHERRY and MANNING do not explicitly teach the claimed properties of tensile strength, absorption capacity and loading factor it is reasonable to presume that these properties are inherent to a structure from the combination of SHERRY and MANNING. Support for said presumption is found in the use of like materials (i.e. wet wipe constructions made of similar materials, produced by hydroentanglement without the need to use of a binder with a cleaning composition that includes similar organic acids and disinfecting components). The burden is upon Applicant to prove otherwise. *In re Fitzgerald* 205 USPQ 594. In addition, the presently claimed property of properties of tensile strength, absorption capacity and loading factor would obviously have been present once the wet wipe from the combination of SHERRY and MANNING is provided. Note *In re Best*, 195 USPQ at 433,

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footnote 4 (CCPA 1977) as to the providing of this rejection made above under 35 USC 102. Reliance upon inherency is not improper even though rejection is based on Section 103 instead of Section 102. *In re Skoner, et al.* (CCPA) 186 USPQ 80

### ***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

### ***Response to Arguments***

7. Applicant's arguments with respect to claims 1-8, 10, 12, 14-17, 19-24, 26, 28 and 30-32 have been considered but are moot in view of the new ground(s) of rejection.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Norca L. Torres-Velazquez whose telephone number is 571-272-1484. The examiner can normally be reached on Monday-Thursday 8:00-5:00 pm and alternate Fridays.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Keith Hendricks can be reached on 571-272-1401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Norca L. Torres-Velazquez/  
Primary Examiner, Art Unit 1794

December 19, 2008